

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

310B



**FROM:** County Counsel/TLMA  
Code Enforcement Department

**SUBMITTAL DATE:**  
April 4, 2011

**SUBJECT:** Order to Abate [Grading Without a Permit]  
Case No. : CV08-03169 [MOUNTZ]  
Subject Property: 48145 Twin Pines Rd., Banning; APN: 529-050-040  
District: Three

**RECOMMENDED MOTION:** Move that:

Departmental Concurrence

1. The Findings of Fact, Conclusions and Order to Abate in Case No. CV 08-03169 be approved;
2. The Chairman of the Board of Supervisors be authorized to execute the Findings of Fact, Conclusions and order to Abate in Case No. CV 08-03169; and
3. The Clerk of the Board of Supervisors be authorized to record the Findings of Fact, Conclusions and Order to Abate in Case No. CV 08-03169.

*[Signature]*

(Continued)

L. ALEXANDRA FONG, Deputy County Counsel  
for PAMELA J. WALLS, County Counsel

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A

<b>SOURCE OF FUNDS:</b>	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:** APPROVE

BY: *Alex Gann*

**County Executive Office Signature** Alex Gann

- Policy
- Policy
- Consent
- Consent
- Consent
- Consent

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Ashley, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley  
Nays: None  
Absent: None  
Date: April 26, 2011  
xc: Co. Co. (3), Recorder

Kecia Harper-Ihem  
Clerk of the Board  
By: *[Signature]*  
Deputy

Dep't Recomm.:  
Per Exec. Ofc.:

Abatement of Public Nuisance  
Case No.: CV08-03169 [MOUNTZ]  
48145 Twin Pines Rd., Banning  
District Three  
Page 2

**BACKGROUND:**

On March 1, 2011, this Board received the declaration of the Code Enforcement Officer in the above-referenced matter. At the conclusion of the hearing, this Board declared the illegal grading located on the subject property to be a public nuisance. The Board ordered the property owner to abate the violative conditions on the property and directed County Counsel to prepare Findings of Fact, Conclusions and Order to Abate.

1 RECORDING REQUESTED BY:  
2 Kecia Harper-Ihem, Clerk of the  
3 Board of Supervisors  
4 (Stop #1010)



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5 WHEN RECORDED PLEASE MAIL TO:  
6 L. Alexandra Fong, Deputy County Counsel  
7 County of Riverside  
8 OFFICE OF COUNTY COUNSEL  
9 3960 Orange Street, Suite 500 (Stop #1350)  
10 Riverside, CA 92501

[EXEMPT GC 6103 & 27383]

11 **BOARD OF SUPERVISORS**  
12 **COUNTY OF RIVERSIDE**



13 IN RE ABATEMENT OF PUBLIC NUISANCE: ) CASE NO. CV 08-03169  
 14 [GRADING WITHOUT PERMITS]; APN: 529- )  
 15 050-040, 48145 TWIN PINES RD., BANNING, )  
 16 COUNTY OF RIVERSIDE, STATE OF )  
 17 CALIFORNIA; JO ANN MOUNTZ (AKA JO )  
 18 ANN TAYLOR), OWNER. )  
 19 )  
 20 ) [R.C.O. Nos. 457 (RCC Title 15) and  
 21 ) 725 (RCC Title 1) and Board of  
 22 ) Supervisors Policy F-6]

23 The above-captioned matter came on regularly for hearing on March 1, 2011, before the  
24 Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor  
25 Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real  
26 property described as 48145 Twin Pines Rd., Banning, Riverside County, APN: 529-050-040, and  
27 referred to hereinafter as "THE PROPERTY."

28 L. Alexandra Fong, Deputy County Counsel, appeared along with Brian Black, Supervising  
Code Enforcement Officer, on behalf of the Director of the Code Enforcement Department.

Owner's representative Rick Taylor and Engineer Harvey Marcell appeared at the hearing.

The Board of Supervisors received the Declaration of the Code Enforcement Officer together  
with the attached Exhibits, evidencing the unapproved grading on THE PROPERTY as a public  
nuisance and violation of Riverside County Ordinance No. 457 as codified in Riverside County Code  
Title 15.

1 **SUMMARY OF EVIDENCE**

2 1. Documents of record in the Riverside County Recorder’s Office identify the Owner of  
3 THE PROPERTY as Jo Ann Mountz aka Jo Ann Taylor (“OWNER”).

4 2. Documents of title indicate that other parties potentially hold a legal interest in THE  
5 PROPERTY, to wit: American Security Company and Wells Fargo Bank (“INTERESTED  
6 PARTIES”).

7 3. THE PROPERTY was inspected by Code Enforcement Officers on April 17, 2008,  
8 April 25, 2008, June 3, 2008, November 4, 2009, August 30, 2010, February 10, 2011 and February  
9 28, 2011.

10 4. During each inspection, grading was observed on THE PROPERTY without permits  
11 and which deviated from the natural topography.

12 5. THE PROPERTY was determined to be in violation of Riverside County Ordinance  
13 No. 457 (RCC Title 15) by the Code Enforcement Officer.

14 6. A Notice of Noncompliance was recorded on January 13, 2010, as Document Number  
15 2010-0015244 in the Office of the County Recorder, County of Riverside.

16 7. On April 25, 2008, a Notice of Violation for Unapproved Grading was posted on THE  
17 PROPERTY. On May 1, 2008 and November 10, 2009, a Notice of Violation was mailed by  
18 certified mail, return receipt requested to OWNER. On November 16, 2009, a Notice of Violation  
19 for Unapproved Grading was sent to the OWNER and INTERESTED PARTIES via certified mail  
20 with return receipt requested.

21 8. On February 9, 2011, a “Notice to Correct County Ordinance Violations and Abate  
22 Public Nuisance” providing notice of the public hearing before the Board of Supervisors scheduled  
23 for March 1, 2011, was mailed to OWNER by certified mail with return receipt requested and was  
24 posted on THE PROPERTY on February 10, 2011.

25 **FINDINGS AND CONCLUSIONS**

26 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in  
27 regular session assembled on March 1, 2011, finds and concludes that:

28 1. WHEREAS, the unapproved grading on the real property located at 48145 Twin Pines

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05/03/2011 03:04P  
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1 Rd., Banning, Riverside County, California, also identified as Assessor's Parcel Number 529-050-040  
2 violates Riverside County Ordinance No. 457 and constitutes a public nuisance and attractive  
3 nuisance.

4 2. WHEREAS, the OWNER, occupants and any person having possession or control of  
5 THE PROPERTY shall abate the condition by restoring THE PROPERTY to the satisfaction of the  
6 Department of Building and Safety so as to prevent offsite drainage and slope erosion in strict  
7 accordance with all Riverside County Ordinances, including but not limited to Riverside County  
8 Ordinance No. 457, within ninety (90) days.

9 3. WHEREAS, the OWNER IS HEREBY FURTHER NOTICED that a five (5) year  
10 hold on the issuance of building permits and land use approvals may be placed on THE PROPERTY.  
11 Upon restoration of the property and payment of the lien, the five (5) year hold on the building  
12 permit issuance and land use approvals may be released.

13 4. WHEREAS, the OWNER IS HEREBY FURTHER NOTICED that the time within  
14 which judicial review of the administrative determinations made herein must be sought is ninety (90)  
15 days from the posting and mailing of the Findings of Fact, Conclusions and Order To Abate Nuisance,  
16 and is governed by California Code of Civil Procedure Section 1094.6.

17 **ORDER TO ABATE NUISANCE**

18 IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located  
19 48145 Twin Pines Rd., Banning, Riverside County, California, also identified as Assessor's Parcel  
20 Number 529-050-040 be abated by the OWNER, and anyone having possession or control of THE  
21 PROPERTY, by restoring THE PROPERTY to the satisfaction of the Department of Building and  
22 Safety so as to prevent offsite drainage and slope erosion in strict accordance with all Riverside  
23 County Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety  
24 (90) days of the posting and mailing of this Order to Abate Nuisance.

25 IT IS FURTHER ORDERED that if unapproved grading on THE PROPERTY is not restored  
26 to the satisfaction of the Department of Building and Safety so as to prevent offsite drainage and  
27 slope erosion in strict accordance with all Riverside County Ordinances, including but not limited to  
28 Riverside County Ordinance No. 457, within ninety (90) days of the posting and mailing of this Order

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1 to Abate Nuisance, the unapproved grading may be abated by representatives of the Riverside County  
2 Code Enforcement Department, a contractor, or the Sheriff's Department upon receipt of the owner's  
3 consent or a Court Order, where necessary, under applicable law authorizing entry onto THE  
4 PROPERTY.

5 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity  
6 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special  
7 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside  
8 County Ordinance Nos. 457 and 725. Under Riverside County Ordinance 725, "abatement costs"  
9 means "any costs or expenses reasonably related to the abatement of conditions which violate County  
10 Land Use Ordinances, and shall include, but not be limited to, enforcement, investigation, collection  
11 and administrative costs, attorneys fees, and the costs associated with the removal or correction of the  
12 violation." Reasonable abatement costs accrued by the Code Enforcement Department will be  
13 recoverable from the property owner(s) even if THE PROPERTY is brought into compliance within  
14 ninety (90) days of the date of this Order to Abate Nuisance.

15 Dated: April 26, 2011

COUNTY OF RIVERSIDE

16  
17 By Bob Buster  
18 Bob Buster  
19 Chairman, Board of Supervisors

20 ATTEST:

21 KECIA HARPER-IHEM

22 Clerk to the Board

23 By Kalungitan

24 Deputy

25 (SEAL)

26  
27 L:\Code Enforcement\Abatements\2010\2008\CV08-03169\457 grading FOF.DOC

FORM APPROVED COUNTY COUNSEL  
BY: Alexandra Fong 3/31/11  
DATE  
L. ALEXANDRA FONG



**LARRY W. WARD  
COUNTY OF RIVERSIDE  
ASSESSOR-COUNTY CLERK-RECORDER**

**Recorder**  
P.O. Box 751  
Riverside, CA 92502-0751  
(951) 486-7000

<http://riverside.asrclkrec.com>

**CERTIFICATION**

Pursuant to the provisions of Government Code 27361.7, I certify under the penalty of perjury that the following is a true copy of illegible wording found in the attached document:

(Print or type the page number(s) and wording below):

CLARIFICATION OF THE SEAL for the Riverside County Board of Supervisors  
(embossed on document)



Date:

4-26-11

Signature:

*Karen Barton*

Print Name:

Karen Barton, Board Assistant, Riverside County Clerk of the Board





**CODE ENFORCEMENT DEPARTMENT  
COUNTY OF RIVERSIDE**

GLENN BAUDE  
Director

**AFFIDAVIT OF POSTING OF NOTICES**

May 24, 2011

RE CASE NO: CV0803169

I, Carol Forrey, **hereby declare:**

I am employed by the Riverside County Code Enforcement Department; that my business address is 39493 Los Alamos Road, Suite #A, Murrieta, California 92563 .

That on 05/23/11 at 09:47AM, I securely and conspicuously posted FINDINGS OF FACTS, CONCLUSIONS AND ORDER TO ABATE at the property described as:

**Property Address:** 48145 TWIN PINES RD, BANNING

**Assessor's Parcel Number:** 529-050-040

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on May 24, 2011 in the County of Riverside, California.

CODE ENFORCEMENT DEPARTMENT

By: Carol Forrey, Code Enforcement Officer



**PROOF OF SERVICE**

Case No. CV08-03169

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STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I, LaKesha Covington, the undersigned, declare that I am a citizen of the United States and am employed in the County of Riverside, over the age of 18 years and not a party to the within action or proceeding; that my business address is 3960 Orange Street, Suite 500, Riverside, California 92501-3674.

That on May 19, 2011, 2011, I served the following document(s):

**FINDINGS OF FACT, CONCLUSIONS AND ORDER TO ABATE NUISANCE**

by placing a true copy thereof enclosed in a sealed envelope(s) addressed as follows:

**OWNERS OR INTERESTED PARTIES  
(SEE ATTACHED NOTICE LIST)**

XX **BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.** I am "readily familiar" with the office's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Riverside, California, in the ordinary course of business.

— **BY PERSONAL SERVICE:** I caused to be delivered such envelope(s) by hand to the offices of the addressee(s).

XX **STATE - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.**

— **FEDERAL - I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.**

EXECUTED ON May 19, 2011, 2011, at Riverside, California.



LAKESHA COVINGTON